

Description of 2003 Neutral Fact-Finder Documents

Introduction

Staff proposes to present the following documents in Docket No. 03-0006 for the 2003 neutral fact-finder process:

- the form and content of the 2003 Neutral Fact Finder Contract Summary Form and the Hourly Data Forms to be used for the 2003 neutral fact-finder process;
- the Instructions for Completing the Contract Summary Form and Hourly Data Forms ("2003 Instructions"); and
- the Staff procedures for protecting the confidentiality of contract summaries.

The following documents are attached:

Attachment 1.01 - General Contract Information

Attachment 1.02 - Hourly Data Forms for 2004

Attachment 1.03 - Hourly Data Forms for 2005

Attachment 1.04 - Hourly Data Forms for 2006

Attachment 1.05 - Hourly Data Forms for 2007

Attachment 1.06 - Hourly Data Forms for 2008

Attachment 1.07 - Instructions for Completing the Contract Summary Form and Hourly Data Forms

Attachment 1.08 - Instructions for Completing the Contract Summary Form and Hourly Data Forms (showing changes)

Attachment 1.09 - ICC Staff Confidentiality Procedures for NFF Contract Summaries

Attachment 1.10 - ICC Staff Confidentiality Procedures for NFF Contract Summaries (showing changes)

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2003 Neutral Fact-Finder Contract Summary Form

Staff recommends that Attachments 1.01 through 1.06 be adopted for the 2003 neutral fact-finder process.

Attachment 1.01 is a document that collects the textual contract information for each contract that is summarized. The Hourly Data Forms, Attachments 1.02 through 1.06, collect hourly data information on price and usage for the years 2004 through 2008.

Attachment 1.01, entitled “General Contract Information,” is a five-page document that collects general information, energy pricing data, capacity pricing data, reliability/interruptibility data, and additional information about each contract.

Attachment 1.01 incorporates minor corrections and other non-substantive changes to the form approved in 2001 in Docket No. 01-0011.¹ Since the changes are minor, Staff has not prepared a version of Attachment 1.01 in underline and strikethrough format.

The Hourly Data Forms collect and present hourly information pertaining to the contracts. Attachments 1.02 through 1.06 contain Hourly Data Forms for the years 2004, 2005, 2006, 2007, and 2008. Attachments 1.02 through 1.06 each contain three worksheets: “Hourly Pricing,” “Hourly Usage,” and “Combined Hourly Pricing & Usage.” The “Hourly Pricing” and “Hourly Usage” data worksheets collect the forecasted prices and usage quantities to be reported to the Neutral Fact-Finder on an hourly basis for

¹ See Order, Docket No. 01-0011, March 27, 2001, Appendix A.

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8,784 data points for leap years (24 hours * 366 days = 8,784 hourly data points) and 8,760 data points for ordinary years. The changes to the Hourly Data forms are described below; Staff has not prepared versions of Attachments 1.02 through 1.06 in underline and strikethrough format.

The Hourly Data Forms approved in Docket No. 01-0011 requested information only for the year 2002. However, Section 16-112(d) of the Public Utilities Act ("Act") states:

The neutral fact-finder shall calculate market values for electric power and energy for each electric utility, taking into account the defining characteristics set forth in subsection (c) of this Section; provided, however, that the neutral fact-finder may determine that a particular value is appropriate for more than one electric utility, or for all electric utilities in this State. **The neutral fact-finder shall calculate the market values for the next year and, to the extent the summaries include a sufficient number of actual contracts to represent a viable market for the sale and delivery of electric power and energy in subsequent years, for each of the 4 succeeding years.** [Emphasis added.]

Furthermore, Sections 16-112(c) of the Act states, in part:

On or before June 1, 1998, on or before April 1, 1999, and on or before each June 1 from 2000 until 2007, or until discontinued in accordance with subsection (m) of this Section, **each electric utility and each alternative retail electric supplier shall submit to the neutral fact-finder a summary of (A) all contracts entered into after June 1, 1997 that are for the sale of electric power and energy from a generating facility or facilities located in this State or located in a contiguous State and owned by an electric utility as part of its interconnected operating system and delivery during one or more of the 5 years succeeding the date of submission, and (B) all contracts entered into after June 1, 1997 for purchase and delivery of electric power and energy in or into this State during one or more of the 5 years succeeding the date of submission; . . .** [Emphasis added.]

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It is Staff's opinion that contract summary information should be collected and submitted to the NFF for energy sold and delivered in the years 2004 through 2008.

The Commission has used the NFF process three times to determine the market values for electric power and energy. In 1998, the NFF determined market values for 1999 and did not provide market values for the years 2000, 2001, 2002, and 2003.² In 1999, the NFF determined market values for 2000 and did not provide market values for the years 2001, 2002, 2003, and 2004.³ In 2000, the NFF determined market values for 2001 and did not provide market values for the years 2002, 2003, 2004, and 2005.⁴ The NFF's Revised Final report for the 2000 NFF process contained the following statement about market values beyond the first year of the five-year period:

The Act requires the neutral fact-finder to calculate market values for the year 2001 and to the extent the contract summaries include a sufficient number of actual contracts to represent a viable market for the sale and delivery of electric power and energy in subsequent years, for each of the succeeding four years. A large majority of the contracts utilized to calculate market values for the year 2001 are retail contracts that terminate by the end of the year 2001. Less than 8% of the contract [sic, contract] summaries submitted were for contracts that extended through the end of 2002. Some of these contract summaries include proxy prices based on actual costs from the preceding year as required by the Act. The Act does not require and it would be inappropriate to utilize actual costs from the preceding year for the years beyond 2001.

Once the cost based and the terminated contracts were removed from the population, the neutral fact-finder concluded that there were not sufficient

² *Findings and Recommendations of the Neutral Fact-Finder on the Determination of Market Values for Electric Power and Energy*, Peter A. Hoffman, Partner, Deloitte & Touche LLP, July 30, 1998, page 25.

³ *1999 Neutral Fact-Finder's Calculation of Market Values for Electric Power and Energy for the State of Illinois*, Frank A. Piantidosi, Partner, Deloitte & Touche LLP, June 7, 1998, page 14.

⁴ *2000 Neutral Fact-Finder's Calculation of Market Values for Electric Power and Energy for the State of Illinois*, Peter A. Hoffman, Partner, Deloitte & Touche LLP, August 15, 2000, (Revised Final), page 14.

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contracts to represent a viable market in the years beyond 2001. Therefore, market values were not included in this report for years beyond 2001.⁵

Staff does not know if there is “a sufficient number of actual contracts to represent a viable market for the sale and delivery of electric power and energy” for the four years subsequent to 2004. However, the NFF would be more likely able to determine that there is “a sufficient number of actual contracts to represent a viable market for the sale and delivery of electric power and energy” if contract information for the four years beyond 2004 is collected and submitted to the NFF. Furthermore, Staff believes that the NFF would be more successful in determining the market values for electric power and energy if contract information for the four years beyond 2004 is collected and submitted to the NFF. The 2003 Instructions for Completing the Contract Summary Form and Hourly Data Forms state that hourly “data should be submitted through the end of the contract period or December 31, 2008, whichever occurs earlier.”⁶

The hourly data forms approved in Docket No. 01-0011 consisted of two worksheets: the first worksheet collected “Hourly Pricing” data, and the second worksheet collected “Hourly Usage” data. The Hourly Data Forms for the 2003 NFF include a new third worksheet that will collect “Combined Hourly Pricing & Usage” data. Additionally, the 2003 NFF “Hourly Pricing” data and “Hourly Usage” data worksheets incorporate improvements to the worksheets approved in Docket No. 01-0011.

⁵ Ibid.

⁶ Attachment 1.08, item H.

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There are several small improvements to the “Hourly Pricing” data worksheets:

- The “Hourly Pricing” data worksheets contain a location to enter the nine-character Respondent Code and the four-digit (or four-digit series) Contract Number⁷; the Respondent Code and Contract Number entered on page 1 of the “Hourly Pricing” data worksheets will be displayed on subsequent pages of the “Hourly Pricing” data worksheets and on all of the pages of the “Hourly Usage” and “Combined Hourly Pricing & Usage” data worksheets.
- In the first column on the left, each date is shown with the day of the week.
- The second column on the left is identified with an “H” and shall be used to identify holiday pricing.⁸ When holiday pricing is identified on the “Hourly Pricing” data worksheets, the holiday designation will be displayed on the “Hourly Usage” and “Combined Hourly Pricing & Usage” data worksheets.
- To aid in the identification of the “Hourly Pricing” data worksheets, the Attachment number is followed by an “a” in parentheses—“(a).”
- The “Hourly Pricing” data worksheets contain 8,784 hourly data points for leap years (2004 and 2008) and contain 8,760 hourly data points for ordinary years.

There are several small improvements to the “Hourly Usage” data worksheets:

- The nine-character Respondent Code and the four-digit (or four-digit series) Contract Number entered on page 1 of the “Hourly Pricing” data worksheets will be

⁷ The nine-character Respondent Code and four-digit Contract Number would appear as “AAABBBCCC1234.” The nine-character Respondent Code and four-digit Contract Number for a series of contracts would appear as “AAABBBCCC1234-5678.”

⁸ See item H.4 in the Instructions.

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displayed on all of the pages of the “Hourly Usage” data worksheets.

- In the first column on the left, each date is shown with the day of the week.
- Holidays identified on the “Hourly Pricing” data worksheets will be displayed on the “Hourly Usage” data worksheets.
- To aid in the identification of the “Hourly Usage” data worksheets, the Attachment number is followed by a “b” in parentheses—“(b).”
- The “Hourly Usage” data worksheets contain 8,784 hourly data points for leap years (2004 and 2008) and contain 8,760 hourly data points for ordinary years.

The “Combined Hourly Pricing & Usage” data worksheet is a new worksheet. The presentation of the hourly pricing and usage information in a side-by-side format will aid the NFF in his evaluation of the contract summaries and the Staff in its audit of selected contract summaries. This worksheet does not require any additional entry of data; this worksheet combines the data entered on the “Hourly Pricing” and “Hourly Usage” data worksheets. The “Combined Hourly Pricing & Usage” data worksheets present the following information:

- The nine-character Respondent Code and the four-digit (or four-digit series) Contract Number entered on page 1 of the “Hourly Pricing” data worksheets will be displayed on all of the pages of the “Combined Hourly Pricing & Usage” data worksheets.
- In the first column on the left, each date is shown with the day of the week.
- Holidays identified on the “Hourly Pricing” data worksheets will be displayed on

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the “Combined Hourly Pricing & Usage” data worksheets.

- To aid in the identification of the “Combined Hourly Pricing & Usage” data worksheets, the Attachment number is followed by a “c” in parentheses—“(c).”
- The “Combined Hourly Pricing & Usage” data worksheets present pricing and usage information in a side-by-side format. The pricing data are drawn from the corresponding data cells on the “Hourly Pricing” data worksheets, and the usage data are drawn from the corresponding data cells on the “Hourly Usage” data worksheets.
- The “Combined Hourly Pricing & Usage” data worksheets contain, for both pricing information and usage information, 8,784 hourly data points for leap years (2004 and 2008) and contain 8,760 hourly data points for ordinary years.

2003 Instructions

Staff recommends that the Commission adopt the 2003 Instructions presented as Attachment 1.07.

Attachment 1.07, entitled “Instructions for Completing the Contract Summary Form and Hourly Data Forms,” is a 17-page document that presents the instructions for completing the Contract Summary Form and Hourly Data Forms for each contract.

The Instructions presented in Attachment 1.07 incorporate minor corrections and changes to the instructions approved in 2001 in Docket No. 01-0011 (“2001

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Instructions”).⁹ Attachment 1.08 presents the proposed Instructions showing the textual changes to the 2001 Instructions in underline and strikethrough format.

Staff has changed the letter and number designations of the items within the 2001 Instructions to present a consistent hierarchy of item designation. The 2003 Instructions uses the following hierarchy for item designations: “A.” – “1.” – “a.” – “(1)” – “(b)”. The changes to the item designations are not shown in the underline and strikethrough format. Only changes to the text of the 2001 Instructions are shown in the underline and strikethrough format for the 2001 Instructions in Attachment 1.08.

The most significant change to the item A “Introduction” is the inclusion of worksheets for the four years subsequent to 2004. The minor changes include changes to the year of the NFF process and subsequent years, changes to the names of various computer files, and grammatical and clarifying changes.

The most significant changes to the item B “General Instructions” are the insertion of the auxiliary verb “shall” in items B.3.a.(2)(b) and (c) and the deletion of the auxiliary verbs “must” and “should,” respectively; these changes make the verb used consistent with the use of the verb “shall” in item B.3.a.(2)(a). The minor changes include the changes to the year of the NFF process and subsequent years, changes to the name of an Excel worksheet and to various computer files, and grammatical and clarifying changes.

⁹ See Order, Docket No. 01-0011, March 27, 2001, Appendix B.

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The most significant changes to the item C “Completion of Page 1 of the 2003 Contract Summary Form, “General Contract Information,” are the insertion of the auxiliary verb “shall” in items C.16.b. and c. and the deletion of the auxiliary verbs “must” and “should,” respectively; these changes make the verb used consistent with the use of the verb “shall” in item C.16.a. and consistent with items B.3.a.(2)(a), (b), and (c). The minor changes include the changes to the name of an Excel worksheet and grammatical and clarifying changes.

The most significant change to the item D “Completion of Page 2 of the 2003 Contract Summary Form, “Energy Pricing Data,” is the deletion of the last sentence in item D.1.b.(2). The deleted language is included in the 2003 Instructions as the last sentence in item D.1.c.(2). When the 2001 Instructions were developed, Staff proposed the insertion of this sentence in item D.1.c.(2); however, Appendix B to the Order in Docket No. 01-0011 included this language in both D.1.b.(2) and D.1.c.(2).¹⁰ The minor changes include the changes to the name of an Excel worksheet and grammatical and clarifying changes.

There are only minor changes to the item E “Completion of Page 3 of the 2003 Contract Summary Form, “Capacity Pricing Data.” These minor changes include changes to the

¹⁰ See pages 7 and 8 of Schedule B of ICC Staff Exhibit 1.0 where this language is added only once to item D.3.(b), and see page 7 Appendix B to the March 27, 2001, Order in Docket No. 01-0011 at items D.2.(b) and D.3.(b). It does appear that the language was inadvertently added a second time in Staff’s clean copy of the 2001 Instructions; see Schedule C of ICC Staff Exhibit 1.0 at pages 7 and 8.

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year of the NFF process and subsequent years, changes to the name of an Excel worksheet, and grammatical and clarifying changes.

There are only minor changes to the item F “Completion of Page 4 of the 2003 Contract Summary Form, “Reliability/Interruptibility.” These minor changes include changes to the year of the NFF process and subsequent years, changes to the name of an Excel worksheet, and grammatical and clarifying changes.

There are only minor changes to the item G “Completion of Page 5 of the 2003 Contract Summary Form, “Additional Information.” These minor changes include changes to the name of an Excel worksheet, changes to the referenced item numbers, and grammatical and clarifying changes.

The most significant change to the item H “Completion of the ‘Hourly Pricing’ Data Worksheet in the ‘Hourly Data Forms’ Workbook” is the addition of language requiring the submission of data for the four years subsequent to 2004. Additionally, there is new language describing the Respondent Code and Contract Number. The minor changes include changes to the names of Excel worksheets and grammatical and clarifying changes.

The most significant change to the item I “Completion of the ‘Hourly Usage’ Data Worksheet in the ‘Hourly Data Forms’ Workbook” is the addition of language requiring

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the submission of data for the four years subsequent to 2004. The minor changes include changes to the year of the NFF process and subsequent years, changes to the name of an Excel worksheet, and grammatical and clarifying changes.

Item J is a new section describing the 'Combined Hourly Pricing & Usage' Data Worksheet in the 'Hourly Data Forms' Workbook.

The most significant change to Attachment 1, the "Reporting Entity Representation," is the addition of the following phrase to the end of the first paragraph: "I am making the following representations:". This change is suggested to improve the readability of the letter. The minor changes include changes to the year of the NFF process, an updated Docket No., and grammatical and clarifying changes.

2003 Confidentiality Procedures

Staff proposed a set of confidentiality procedures for handling the 1999, 2000, and 2001 contract summaries which were adopted by the Commission in Docket Nos. 98-0769, 00-0007, and 01-0011, respectively.¹¹

Staff recommends that the Commission adopt the confidentiality procedures included as Attachment 1.09, "ICC Confidentiality Procedures for Handling NFF Contract Summaries." Staff has made changes to the confidentiality procedures currently in

¹¹ See Appendix C to the March 27, 2001, Order in Docket No. 01-0011.

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place to clarify the procedures and update them for organization changes. Attachment 1.10 presents these changes in underline and strikethrough format to the 2001 confidentiality procedures. Staff will recommend that the Commission approve the confidentiality procedures presented in Attachment 1.09.